

1 UNITED STATES DISTRICT COURT
2 DISTRICT OF NEVADA

3 UNITED STATES OF AMERICA,

4 Plaintiff

5 v.

6 KING ISAAC UMOREN,

7 Defendant

Case No.: 2:16-cr-00374-APG-NJK

**Order Granting Plaintiff's Motion in
Limine Regarding Anita Santa Ana**

[ECF No. 213]

8 Defendant King Isaac Umoren owned and operated tax preparation businesses. In this
9 case,¹ the government alleges Umoren created false tax returns, stole money from the refunds
10 generated by the false returns, and impersonated an FBI agent. The government moves *in limine*
11 seeking to exclude mention of Anita Santa Ana's federal and state criminal cases as irrelevant
12 and unfairly prejudicial.

13 The government does not plan on calling Santa Ana as a witness. It argues it is unlikely
14 she will testify given she has very little connection with the facts of the case, so Federal Rule of
15 Evidence 608(b) does not apply. It argues that if Umoren were to call Santa Ana, it would likely
16 be only to impeach her, and such a purpose is not allowed. Further, the government contends
17 that any evidence Umoren would offer about Santa Ana would be to establish propensity and is
18 therefore inadmissible, and any similarity between Santa Ana's false tax filings and Umoren's
19 allegedly false tax filings are insufficient to establish admissibility under 404(b)'s non-
20 propensity purposes. The government argues that even if I find evidence about Santa Ana
21 relevant for a non-propensity purpose, I should nevertheless exclude it under Rule 403, as
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¹ Additional charges against Umoren also related to his tax preparation businesses are pending in
United States v. Umoren, 2:19-cr-00064-APG-NJK.

1 evidence of Santa Ana's false tax return scheme has low probative value to deciding this case,
2 and the evidence would create a confusing mini-trial about her cases while diverting the jury's
3 attention from this case.

4 Umoren responds that I should defer ruling on motions *in limine* until trial provides the
5 proper context to consider the evidence. Umoren argues the prejudicial effect of this evidence
6 does not substantially outweigh its probative value, and any prejudicial effect can be dealt with
7 by limiting instructions. Umoren suggests I deny the motion under Rule 608 because it permits
8 inquiry into specific instances of a witness's conduct if they are probative of the witness's
9 truthfulness. Umoren argues that even if he were to call Santa Ana for the sole purpose of
10 impeachment, a motion *in limine* to prevent this would be improper. Umoren notes the Ninth
11 Circuit allows "impeachment by contradiction," meaning I may admit extrinsic evidence that
12 specific testimony is false because it is contradicted by other evidence. Umoren argues it would
13 be improper to order a blanket exclusion of extrinsic evidence for impeachment, so I should rule
14 on evidence proffered to impeach Santa Ana only after a party's objections.

15 The government replies that I should rule on its motion now to save time and eliminate
16 this issue prior to trial. It contends that as in *United States v. Umoren*, 2:19-cr-00064-APG-NJK,
17 the issue is ripe for decision because Umoren has not articulated a good faith basis for calling
18 Santa Ana as a witness. The government argues Umoren's Rule 608(b) arguments are irrelevant
19 because he has failed to articulate any basis for calling Santa Ana as a witness to begin with.
20 And absent any articulated probative value of Santa Ana's testimony, Umoren's indication that
21 he would call Santa Ana only to impeach her using evidence of her criminal cases is barred by
22 Rule 403.

1 Motions *in limine* allow me to resolve issues prior to trial, thus saving jurors' time and
2 eliminating distractions. *Palmerin v. City of Riverside*, 794 F.2d 1409, 1413 (9th Cir. 1986). I
3 should "[e]ncourage counsel to bring motions *in limine* on evidentiary questions" to "prevent
4 disruptions ... which could render the proceedings incoherent to the jurors." *Id.* (quotation
5 omitted). I may exclude relevant evidence when its probative value is substantially outweighed
6 by a danger of unfair prejudice, confusing the issues, or misleading the jury. Fed. R. Evid. 403.

7 I previously considered the government's similar motion in *United States v. Umoren*,
8 2:19-cr-00064-APG-NJK, which sought an order precluding evidence about Santa Ana's
9 criminal investigation. There, I granted the motion because evidence of Santa Ana's other
10 criminal activities had very little probative or exculpatory value, and it would likely confuse the
11 issues for the jury. The same is true here. Such evidence has very little, if any, probative value
12 to this case and would likely confuse the jury by having it focus on Santa Ana's, instead of
13 Umoren's, actions.

14 I THEREFORE ORDER that the government's motion *in limine* (ECF No. 213) is
15 **GRANTED.**

16 DATED this 3rd day of December, 2021.



ANDREW P. GORDON
UNITED STATES DISTRICT JUDGE